

HOUSE BILL No. 1527

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-14.

Synopsis: Tax increment financing. Provides that in counties other than Marion County, property tax proceeds allocated under tax increment financing (TIF) may be used for: (1) improvements that are located in or serve the TIF allocation area; or (2) in the case of a redevelopment commission established by a municipality, improvements that are located within the municipality. (Current law provides that the property tax proceeds allocated under TIF may be used for improvements that are physically located in or physically connected to the TIF allocation area.) Specifies certain improvements that may be financed with property tax proceeds allocated under TIF. Provides that in counties other than Marion County, property tax proceeds allocated under a TIF housing program may be used for specified purposes: (1) within the TIF allocation area; or (2) in the case of a redevelopment commission established by a municipality, within the municipality. (Current law provides that the property tax proceeds must be used within the TIF allocation area for the specified purposes.)

Effective: July 1, 2009.

Candelaria Reardon

January 14, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1527

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-14-39, AS AMENDED BY P.L.146-2008,
2 SECTION 738, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: Sec. 39. (a) As used in this section:

4 "Allocation area" means that part of a redevelopment project area
5 to which an allocation provision of a declaratory resolution adopted
6 under section 15 of this chapter refers for purposes of distribution and
7 allocation of property taxes.

8 "Base assessed value" means the following:

9 (1) If an allocation provision is adopted after June 30, 1995, in a
10 declaratory resolution or an amendment to a declaratory
11 resolution establishing an economic development area:

12 (A) the net assessed value of all the property as finally
13 determined for the assessment date immediately preceding the
14 effective date of the allocation provision of the declaratory
15 resolution, as adjusted under subsection (h); plus

16 (B) to the extent that it is not included in clause (A), the net
17 assessed value of property that is assessed as residential

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property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted

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1 before June 1, 1987, "property taxes" also includes taxes imposed
 2 under IC 6-1.1 on depreciable personal property. If a redevelopment
 3 commission adopted before June 1, 1987, a resolution to include within
 4 the definition of property taxes taxes imposed under IC 6-1.1 on
 5 depreciable personal property that has a useful life in excess of eight
 6 (8) years, the commission may by resolution determine the percentage
 7 of taxes imposed under IC 6-1.1 on all depreciable personal property
 8 that will be included within the definition of property taxes. However,
 9 the percentage included must not exceed twenty-five percent (25%) of
 10 the taxes imposed under IC 6-1.1 on all depreciable personal property.

11 (b) A declaratory resolution adopted under section 15 of this chapter
 12 on or before the allocation deadline determined under subsection (i)
 13 may include a provision with respect to the allocation and distribution
 14 of property taxes for the purposes and in the manner provided in this
 15 section. A declaratory resolution previously adopted may include an
 16 allocation provision by the amendment of that declaratory resolution on
 17 or before the allocation deadline determined under subsection (i) in
 18 accordance with the procedures required for its original adoption. A
 19 declaratory resolution or an amendment that establishes an allocation
 20 provision after June 30, 1995, must specify an expiration date for the
 21 allocation provision. For an allocation area established before July 1,
 22 2008, the expiration date may not be more than thirty (30) years after
 23 the date on which the allocation provision is established. For an
 24 allocation area established after June 30, 2008, the expiration date may
 25 not be more than twenty-five (25) years after the date on which the
 26 allocation provision is established. However, with respect to bonds or
 27 other obligations that were issued before July 1, 2008, if any of the
 28 bonds or other obligations that were scheduled when issued to mature
 29 before the specified expiration date and that are payable only from
 30 allocated tax proceeds with respect to the allocation area remain
 31 outstanding as of the expiration date, the allocation provision does not
 32 expire until all of the bonds or other obligations are no longer
 33 outstanding. The allocation provision may apply to all or part of the
 34 redevelopment project area. The allocation provision must require that
 35 any property taxes subsequently levied by or for the benefit of any
 36 public body entitled to a distribution of property taxes on taxable
 37 property in the allocation area be allocated and distributed as follows:

38 (1) Except as otherwise provided in this section, the proceeds of
 39 the taxes attributable to the lesser of:

40 (A) the assessed value of the property for the assessment date
 41 with respect to which the allocation and distribution is made;
 42 or

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(B) the base assessed value;
shall be allocated to and, when collected, paid into the funds of
the respective taxing units.

(2) Except as otherwise provided in this section, property tax
proceeds in excess of those described in subdivision (1) shall be
allocated to the redevelopment district and, when collected, paid
into an allocation fund for that allocation area that may be used by
the redevelopment district only to do one (1) or more of the
following:

(A) Pay the principal of and interest on any obligations
payable solely from allocated tax proceeds which are incurred
by the redevelopment district for the purpose of financing or
refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for
bonds payable solely or in part from allocated tax proceeds in
that allocation area.

(C) Pay the principal of and interest on bonds payable from
allocated tax proceeds in that allocation area and from the
special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the
unit to pay for local public improvements **(including any
improvement described in IC 36-9-1-2)** that:

(i) are ~~physically~~ located in or ~~physically connected to~~ that
serve the allocation area; or

(ii) **in the case of a redevelopment commission
established by a municipality, are located within the
municipality.**

(E) Pay premiums on the redemption before maturity of bonds
payable solely or in part from allocated tax proceeds in that
allocation area.

(F) Make payments on leases payable from allocated tax
proceeds in that allocation area under section 25.2 of this
chapter.

(G) Reimburse the unit for expenditures made by it for local
public improvements (which include buildings, parking
facilities, ~~and~~ other items described in section 25.1(a) of this
chapter, **and any improvement described in IC 36-9-1-2)**
that:

(i) are ~~physically~~ located in or ~~physically connected to~~ that
serve the allocation area; or

(ii) **in the case of a redevelopment commission
established by a municipality, are located within the**

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municipality.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that:

(i) is ~~physically~~ located in or ~~physically connected to that~~ serves the allocation area; or

(ii) in the case of a redevelopment commission established by a municipality, is located within the municipality;

under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) **(before their repeal)** that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2, **before its repeal**) for that year as determined under IC 6-1.1-21-4, **(before its repeal)** that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2, **before its repeal**) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are:

(i) in the allocation area or serving the allocation area; or

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(ii) in the case of a redevelopment commission established by a municipality, located within the municipality.

Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter, and any improvement described in IC 36-9-1-2.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in

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subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

- (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the property as valued without regard to this section; or
- (2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each

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year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to

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follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 2. IC 36-7-14-48, AS AMENDED BY P.L.146-2008, SECTION 741, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units:

(A) within the allocation area; **or**

(B) in the case of a redevelopment commission established by a municipality, within the municipality.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) **that:**

(A) **is** within or serving the allocation area; **or**

(B) in the case of a redevelopment commission established by a municipality, is located within the municipality.

(3) The acquisition of real property and interests in real property:

(A) within the allocation area; **or**

(B) in the case of a redevelopment commission established

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by a municipality, within the municipality.

(4) The demolition of real property:

(A) within the allocation area; or

(B) in the case of a redevelopment commission established by a municipality, within the municipality.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units:

(A) within the allocation area; or

(B) in the case of a redevelopment commission established by a municipality, within the municipality.

However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) For property taxes first due and payable before January 1, 2009, providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) (**before their repeal**) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2, **before its repeal**) for that year as determined under IC 6-1.1-21-4(a)(1) (**before its repeal**) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2, **before its**

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repeal) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2, **before its repeal**) that under IC 6-1.1-22-9 are due and payable in a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent

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assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1, **before its repeal**) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2, **before its repeal**) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2, **before its repeal**).

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